

County Council – Proposed Changes to the Constitution

To: Constitution and Ethics Committee

Meeting Date: 29 September 2021

From: Democratic Services Manager

Purpose: To consider proposed revisions to the Council's Constitution.

Recommendation: The Committee is asked to:

Recommend the following changes to the Constitution, as set out in the report, to full Council:

- (i) Amendment to the procedure for changes in committee membership;
- (ii) Repositioning of the substitute procedure rules;
- (iii) Amendments to the motions and amendments procedure in the Council Procedure Rules;
- (iv) Amendments to the amendments procedure in the Procedure Rules for Committee and Sub-Committee meetings;
- (v) Amendments to the Media Protocol;
- (vi) Requirement for meetings to adjourn every two hours;
- (vii) Amendment to the Officer Employment Procedure Rules;
- (viii) Renaming of the Communities, Social Mobility and Inclusion Committee;
- (ix) Amendments to the Terms of Reference of the Communities, Social Mobility and Inclusion Committee;
- (x) Amendment to the Rules of Procedure for the Pension Fund Committee, Investment Sub-Committee and Pension Fund Board;

- (xi) Delegation of authority to the Monitoring Officer to carry out any constitutional amendments required by changes to LGSS; and
- (xii) Amendment to the Terms of Reference of the Children and Young People Committee.

Officer contact:

Name: Michelle Rowe
Post: Democratic Services Manager
Email: michelle.rowe@cambridgeshire.gov.uk
Tel: 01223 699180

Member contacts:

Names: Councillor Sebastian Kindersley
Post: Chair
Email: skindersley@hotmail.com
Tel: 01223 706398

1. Background

- 1.1 The Local Government Act 2000 requires all local councils to have a constitution that covers all the standing orders, delegated processes and the codes of conduct for councillors. Changes to the Council's Constitution are considered by the Constitution and Ethics Committee before being recommended to Full Council for approval.

2. Main Issues

2.1 Changes to Committee Membership

- 2.1.1 According to the Council's Constitution, every person appointed to be a member of a committee or sub-committee will remain a member of that committee until the first of the following events:

- (a) They cease to be a Councillor;
- (b) Their resignation;
- (c) Changes to political balance necessitate changes to committee membership; or
- (d) Removal by the Proper Officer at the request of their group.

- 2.1.2 Substitute members may attend meetings only:

- (i) To take the place of the ordinary member for whom they are the designated substitute; and
- (ii) After notifying the relevant Democratic Services Officer of the intended substitution before the start of the meeting.

- 2.1.3 Any changes in membership must be notified to the Democratic Services Manager by the Group Leader or the majority of the group no later than 12.00 noon five clear working days before the relevant meeting.

- 2.1.4 This leaves no provision for extraordinary circumstances, for example should a Councillor cease to be the member of a committee after resigning from their political group (as occurred with the Adults Committee on 10th December 2020) or sadly die within five clear working days of a meeting. Under the current procedure, the Group would not be able to nominate a new Councillor to take their place on the committee, nor would a substitute be able to attend the meeting, as the Council has allocated a place to the political Group as opposed to the Member.

- 2.1.5 In order to minimise the potential for this situation arising, the following amendment is proposed for Paragraph 4.1 of Part 4.1 of the Constitution (Council Procedure Rules), with removals in strikethrough and additions in bold:

Any changes in membership must be notified to the Democratic Services Manager by the Group Leader or the majority of the group no later than 12.00 noon ~~five clear working days~~ **the working day** before the relevant meeting.

2.1.6 Also, the procedure for substitution at committee meetings is currently included in the Council Procedure Rules, and not in the Committee Procedure Rules, for which the rules of substitution are relevant. Therefore, it is proposed that the current procedure for substitution, listed below, be transferred to Part 4.4 of the Constitution (Procedure Rules for Committee and Sub-Committee Meetings) [additions for clarification in bold].

4.2 Powers and Duties

Substitute members, when substituting for an ordinary member of the committee, will have all the powers and duties of any ordinary member of the committee but will not be able to exercise any special powers or duties exercisable by the person they are substituting.

When substituting for the Chair of a committee, the substituted Member will have the power and duties of any ordinary Member, but not the additional duty of Chair.

4.3 Substitution

Substitute members may attend meetings in that capacity only:

- (i) To take the place of the ordinary member for whom they are the designated substitute.
- (ii) After notifying the relevant Democratic Services Officer of the intended substitution before the start of the meeting.

In the event of the ordinary member of the committee being present at the start of the meeting, the ordinary member may advise that the substitution shall not take effect. The membership of the committee shall be as constituted at the start of the meeting and substitution will not be permitted during the course of the meeting.

Substitute members are eligible for allowances in accordance with the Council's scheme of allowances as if they were appointed members of that committee.

2.2 Procedure for Amendments to Motions

2.2.1 At the meeting of Council on 15th December 2020, the Chair of the Council asked the Constitution and Ethics Committee to review the section in the Constitution relating to amendments to motions. He was concerned about an amendment which he felt had negated a motion but had then been allowed following a revision after the deadline for the submission of amendments.

2.2.2 Section 12.6, Amendments to Motions (Part 4.1 – Council Procedure Rules), states the following:

12.1 Amendments to Motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
 - (i) To refer the matter to an appropriate body or individual for consideration or reconsideration.
 - (ii) To leave out words.
 - (iii) To leave out words and insert or add others.
 - (iv) To insert or add words.
 - (v) As long as the effect of (ii) to (iv) is not to negate the motion.
- (b) An amendment to a motion must be delivered to the Monitoring Officer and Democratic Services Manager in its intended final form not later than noon one working day before the date of the meeting at which the motion is to be considered. If more than one amendment is received, amendments will be taken at the meeting in the order in which they were received by the Democratic Services Manager.

If no withdrawal, confirmation or change is received by the Monitoring Officer, it will be assumed that the amendment is to be considered in its initial form.

No other amendment may be moved at the meeting except where the Chairman/woman of Council may permit, at his or her absolute discretion, in exceptional circumstances and to ensure the efficient or proper discharge of the Council's business, a further amendment or amendments to be moved.

- (c) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (d) If an amendment is not carried, other amendments to the original motion may be moved.
- (e) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

- (f) After an amendment has been carried, the Chairman/woman will advise the meeting of the content of the amended motion before accepting any further amendments, or if there are none, put it to the vote.

2.2.3 The current wording of the Council's Standing Orders on amendments reflects the Model Standing Orders issued from the Government as part of the Modular Constitution alongside the Local Government Act 2000.

2.2.4 In order to avoid amendments which add wording which is unrelated to the subject of the motion, it is proposed to add the following [addition in bold] to the above section 12.1(a) of the Constitution:

An amendment to a motion must be relevant to the motion and **should not seek to introduce into the motion a new issue unrelated to the subject in the motion.** It will either be:

2.3 Timing of submission of amendments

Submission to the Monitoring Officer

2.3.1 Section 12.1(b) of Part 4.1 (Council Procedure Rules) of the Constitution states:

An amendment to a motion must be delivered to the Monitoring Officer and Democratic Services Manager in its intended final form not later than noon one working day before the date of the meeting at which the motion is to be considered.

2.3.2 There is currently no requirement for amendments to be submitted in draft/initial form so the Monitoring Officer can consider if they can be accepted in good time before noon the day before the council meeting. Complex amendments or amendments on specialist service issues often involve the need to contact the relevant Executive Director or Service Director for clarification/guidance before a decision can be made as to whether an amendment can be accepted in the form in which has been submitted.

2.3.4 For example, Peterborough City Council's standing orders require an amendment to be delivered to the Monitoring Officer in its initial form not later than noon three clear working days before the date of the meeting (not including the day of the meeting) at which the motion is to be considered, and to be delivered to the Monitoring Officer in its intended final form not later than noon one working day before the date of the meeting (not including the day of the meeting) at which the motion is to be considered.

If the amendment is not submitted in its initial form by 12.00 noon three clear working days before the date of the meeting it is not to be allowed. There is no opportunity to bypass this process and go straight to the final version.

2.3.5 It is therefore proposed to adopt a similar approach to this but to require draft amendments to be submitted two working days before the date of the meeting instead of three, so that they must be received by noon on Friday before a council meeting on Tuesday morning. The Monitoring Officer will then, after discussion with relevant service areas, confirm with

the member proposing the amendment if any alterations are necessary before a final form amendment is submitted before noon on the day before the council meeting.

It is further proposed, for clarity, that the order of the subsequent two sentences in the above section 12.1(b) of the Constitution be switched as one relates directly to the submission of amendments.

If more than one amendment is received, amendments will be taken at the meeting in the order in which they were received by the Democratic Services Manager.

If no withdrawal, confirmation or change is received by the Monitoring Officer, it will be assumed that the amendment is to be considered in its initial form.

Amendments to Recommendations and Motions in Committee Meetings

2.3.6 The current procedure for amendments to recommendations and motions in committee meetings, as set out in Part 4.4 (Procedure Rules for Committee and Sub-Committee Meetings) states:

15. Amendments to Recommendations and Motions

Amendments to a motion can be moved or seconded by any Councillor to leave out words, to add words or both provided that such changes must not have the effect of reversing a proposal (for example to recommend approval instead of refusal) and must be relevant to the original motion.

Amendments must be dealt with and voted on one at a time, subject to the exceptions set out in the Rules of Debate.

If an amendment is not carried following a vote then alternative amendments can be moved.

If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.

After an amendment has been carried, the Chair will advise the meeting of the content of the amended motion before accepting any further amendments, or if there are none, put it to the vote.

2.3.7 The current procedure allows for amendments to recommendations to be made without prior notice or consultation with officers. This increases the likelihood that an unenforceable amendment is proposed or approved.

It is therefore proposed to replace the above Section 15 of Part 4.4 (Procedure Rules for Committee and Sub-Committee Meetings) with the procedure set out in Section 12.6 of Part 4.1 (Council Procedure Rules), subject to the changes proposed in 2.2.4 and 2.3.5 above, as follows:

Amendments to Recommendations and Motions

- (a) An amendment to a motion must be relevant to the motion and will either be:
- (i) To refer the matter to an appropriate body or individual for consideration or reconsideration.
 - (ii) To leave out words.
 - (iii) To leave out words and insert or add others.
 - (iv) To insert or add words.

As long as the effect of (ii) to (iv) is not to negate the motion.

- (b) An amendment to a motion must be delivered to the Democratic Services Officer supporting the relevant committee in its intended final form not later than noon one working day before the date of the meeting at which the motion is to be considered. If more than one amendment is received, amendments will be taken at the meeting in the order in which they were received by Democratic Services.

If no withdrawal, confirmation or change is received by the Democratic Services Officer supporting the meeting, it will be assumed that the amendment is to be considered in its initial form.

No other amendment may be moved at the meeting except where the Chair may permit, at their absolute discretion, in exceptional circumstances and to ensure the efficient or proper discharge of the Council's business, a further amendment or amendments to be moved.

- (c) Only one amendment may be moved and discussed at any one time. No further amendment may be moved until the amendment under discussion has been disposed of.
- (d) If an amendment is not carried, other amendments to the original motion may be moved.
- (e) If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion to which any further amendments are moved.
- (f) After an amendment has been carried, the Chair will advise the meeting of the content of the amended motion before accepting any further amendments, or if there are none, put it to the vote.

2.4 Media Protocol

2.4.1 The Council is committed to effective communications so that citizens of the County are well informed about the services that affect their lives every day and how these services are organised, led and developed. The local media – both traditional and increasingly well-followed social media platforms – play a valuable role in Cambridgeshire life. The Communications Unit operates within the terms and spirit of a legal framework set out in the Local Government Act 1986 – which defines what publicity is, and that it should not be used to solicit support for any political party. It also operates within the National Code of Recommended Practice on Local Authority Publicity, first published by the Government in August 1988 and revised in 2001 and 2011. The revised code states that publicity issued by local authorities should be lawful, cost effective, objective, even-handed, appropriate, have regard to equality and diversity and be issued with care during periods of heightened sensitivity.

2.4.2 To ensure the Council works within both the framework and the code, the communications and media protocol forms part of the Council's Constitution. It is reviewed every four years following Council elections or if significant legal changes happen earlier.

2.4.3 Following a review of the current protocol, proposed changes are set out in Appendix 1 of the report. Key changes since the protocol was last reviewed include:

- Changes to reflect the practicalities of working with a joint administration, including a ratio for the different Joint Administration Leaders to comment on issues relating to Council policy (e.g. 5.6.1 in Appendix 1)
- The increased use of social media and social media platforms to communicate directly with different audiences (e.g. 5.8 in Appendix 1)
- A stronger focus on the way the council will use research and campaigns to affect behavioural change around key outcomes (e.g. 5.5 in Appendix 1)
- More detailed information about protection for children in our care in relation to media or communications activities (e.g. 6.11 in Appendix 1)
- Clarification around communication in partnerships. (7 in Appendix 1)

2.5 Obligatory Adjournment of Meetings

2.5.1 It is recommended that a requirement be added to the Constitution for meetings exceeding two hours to adjourn for ten minutes every two hours.

2.5.2 The following amendment is proposed for Section 2 of Part 4.1 of the Constitution (Council Procedure Rules), with additions in **bold**:

2. Ordinary Meetings

Ordinary meetings of the Council will take place in accordance with a programme decided at the Council's annual meeting. Ordinary meetings will:

- (i) Elect a person to preside if the Chair and Vice-Chair are not present.
- (ii) Approve the minutes of the last meeting.
- (iii) Receive any announcements from the Chair, Leader, Committee Chairmen/women or the Chief Executive.
- (iv) Subject to the consent of the person presiding at the meeting:
 - (a) receive questions from, and provide answers to, the public; and
 - (b) receive petitions in accordance with the Council's petitions scheme.
- (v) Deal with any business from the last Council meeting.
- (vi) Consider recommendations from the Council committees on matters requiring a Council decision.
- (vii) Receive reports about and receive questions and answers on the business of joint arrangements and external organisations.
- (viii) Consider motions.
- (ix) Consider any other business specified in the summons to the meeting, including consideration of proposals from the Strategy and Resources Committee in relation to the Council's budget and policy for debate.
- (x) Put questions to the Council's representatives on the Fire Authority and the Combined Authority Board and Overview and Scrutiny Committee.
- (xi) **Adjourn for ten minutes approximately every two hours, at an appropriate point.**

2.5.3 The following amendment is proposed for Section 6 of Part 4.4 of the Constitution (Procedure Rules for Committee and Sub-Committee Meetings), with additions in **bold**:

6. Other Points Regarding the Order of Business

- At any time during the meeting the Chair can adjourn the meeting.
- The order of business can be varied at the discretion of the Chair.
- The minutes of ordinary meetings will not normally be confirmed at special meetings.

- **The meeting will adjourn for ten minutes approximately every two hours at an appropriate point.**

2.6 Appointment of Statutory Officers

2.6.1 Confirmation of the appointment and dismissal of statutory chief officers (the Head of Paid Service, the Monitoring Officer and the Chief Finance Officer) is reserved to Full Council, as indicated in Part 3A (Allocation of Responsibility for Functions – Full Council and Committees) of the Constitution.

2.6.2 However, this procedure is not fully referenced in Part 4.6 (Officer Employment Procedure Rules) of the Constitution. It is therefore recommended that Section 3 of the Officer Employment Procedure Rules be amended as follows, with additions in **bold**:

3. Appointment of Chief Executive, **Monitoring Officer and Chief Finance Officer (Section 151 Officer)**

- (a) The Full Council will approve the appointment of the Chief Executive, **the Monitoring Officer and the Chief Finance Officer (Section 151 Officer)** following the recommendation of such an appointment by the Staffing and Appeals Committee. That committee shall comprise no more than nine members of the Council;
- (b) The Full Council may only make or approve the appointment of the Chief Executive, **the Monitoring Officer or the Chief Finance Officer (Section 151 Officer)** where no well-founded objection has been made by any member of the Staffing and Appeals Committee.

2.7 Communities, Social Mobility and Inclusion Committee – Title and Terms of Reference

2.7.1 At the Communities, Social Mobility and Inclusion Committee meeting on 8th July 2021, it was unanimously resolved to request the addition of the word ‘Partnership’ be added to the Committee’s title. The Committee would therefore be named the Communities, Partnership, Social Mobility and Inclusion Committee. This is intended to emphasise the importance of partnership working and its central role in the Think Communities approach, alongside the work of the Committee. If accepted, references to the Committee in the Constitution would need to be updated.

2.7.2 The Council has a statutory duty to positively promote equality. Given the Communities, Social Mobility and Inclusion Committee’s remit to address inequalities, it is suggested that the Committee takes formal responsibility for this duty, with the following additional delegation being added to its Terms of Reference:

Authority for oversight, operation and review of the Council’s response to its equalities duties.

2.7.3 The following responsibilities lie with the Executive Director for People and Communities, as indicated in the Scheme of Delegation, and should therefore be included in the functions delegated to the Committee in its Terms of Reference:

- Community Safety (including Domestic Abuse and Sexual Violence)
- Community Development and Resilience
- Prevent and Hate Crime
- Homelessness Prevention

2.8 Pension Fund Board – Membership and Quorum

2.8.1 The Pension Fund Board has requested Full Council approve an increase in the Board quorum from two to three members. It is proposed that the Rules of Procedure for the Pension Fund Committee, Investment Sub-Committee and Pension Fund Board in Part 3B-9 (Pension Fund Committee and Board) be amended as follows (addition in bold, removal in strikethrough):

Quorum	<p>5 (1/3 plus 1) Committee Members shall form a quorum for meetings of the Committee.</p> <p>4 (1/3 plus 1) Investment Sub-Committee Members shall form a quorum for meetings of the Investment Sub-Committee.</p> <p>23 (1/3 plus 1) Board Members shall form a quorum for meetings of the Board (shall include at least one each from the employer and member sides).</p> <p>No business requiring a decision shall be transacted at any meeting of the Committee or Investment Sub-Committee or Board unless the meeting is quorate. If it arises during the course of a meeting that a quorum is no longer present, the Chair shall either suspend business until a quorum is re-established or declare the meeting at an end and arrange for the completion of the agenda at the next meeting or at a special meeting.</p>
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2.9 Local Government Shared Services (LGSS)

2.9.1 The Constitution requires a number of amendments to reflect recent changes to the relationship between the Council and LGSS, including the reallocation of delegations to Council officers and the removal of references to now non-existent roles. It is recommended that Full Council delegate authority to the Monitoring Officer to carry out any current or future constitutional amendments required by changes to LGSS.

2.10 Co-opted Members’ Voting Rights on the Children and Young People Committee

2.10.1 A co-opted member of the Children and Young People Committee has asked for clarification of co-opted members’ voting rights. The Constitution and Ethics Committee is

asked to consider recommending to Council that the Constitution be amended to reflect the position more clearly. Similarly, Peterborough City Council has also recently appended the co-opted members guidance note to their Constitution.

2.10.2 Department for Education (DfE) Circular 19/99 states that, where a diocesan body appoints foundation governors of a voluntary school in a local authority area, the local authority committees dealing with education matters should include diocesan representatives as non-elected voting members. Those diocesan representatives will be entitled to vote on:

- i. Matters which relate to schools maintained by the local authority
- ii. Matter which relate to pupils who are educated in schools maintained by the local education authority, or who are educated by the local education authority otherwise than at school.

2.10.3 The Children and Young People Committee's Terms of Reference (Part 3-3 of the Constitution) currently state that:

'The following representatives, who shall be co-opted as non-elected members with voting rights on those matters relating to the Council's education functions. They may speak but not vote on other matters:

- 1 Church of England diocesan representative
- 1 Roman Catholic diocesan representative.'

2.10.4 To more accurately reflect the guidance contained in DfE Circular 19/99 it is recommended that the Constitution be amended to read:

'One Church of England diocesan representative and one Roman Catholic diocesan representative shall be co-opted as non-elected members with voting rights on:

- i. Matters which relate to schools maintained by the local authority
- ii. Matter which relate to pupils who are educated in schools maintained by the local education authority, or who are educated by the local education authority otherwise than at school.

They may speak but not vote on other matters.'

3. Source documents

3.1 [The Council's Constitution](#)